

Appl. No. : **09/840,548**
Filed : **April 23, 2001**

REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Discussion of Claim Rejections Under 35 U.S.C. Sections 102(b) and 103(a)

In the Office Action, the Examiner rejected Claims 1-28 and 30-41 under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 6,028,679, to Murphy (hereinafter "Murphy") in view of U.S. Patent No. 6,046,824, to Barak (hereinafter "Barak"). Claim 29 was rejected under 35 U.S.C. Section 102(b) as being anticipated by Murphy.

Applicant respectfully disagrees with these rejections in view of the claims, as amended. Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. Furthermore, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See* M.P.E.P § 2143.03. Applicant respectfully submits that at least one limitation is not taught or suggest by each of the above-listed claims.

Claims 1, 13, 17, 21, 25, 29, 34, and 38

Independent Claim 1, as amended recites: "receiving the fax message via the Internet by a server having at least one dial-up modem;. . . ; and sending the fax message via the dial-up modem and a public switched telephone network to a receiver." Independent Claims 13, 17, 21, 25, 29 34, and 38 include similar types of limitations. Applicant respectfully submits that at least these limitations are not taught or suggest by the cited art.

Murphy describes the use of an 'ecom' 26 for receiving emails from a global area network 12 and converting the email for transmission to a facsimile device 26. *See* Figure 1 and col. 2 lines 58-65. In Murphy, assuming for the purposes of argument, that the ecom 26 corresponded to the claimed server, it does not communicate with the facsimile device via a public switched telephone network but instead communicates over a single direct connection line 15. Disadvantageously, the Murphy system requires the usage at the recipient site of the special

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purpose hardware, i.e., the ecom 26, to receive the fax. In one embodiment of Applicant's invention, a server communicates directly with the facsimile device using a public switched telephone network, bypassing the need for additional hardware.

Furthermore, Applicant respectfully submits that at least these limitations are also not taught or suggest by Barak. Barak was generally relied upon in the Office Action for teaching how to determine the availability of a facsimile machine to receive data.

Since the cited references fail to teach in isolation or in combination at least the above-limitations, Applicant respectfully submits that these Claims are in condition for allowance.

Claims 2-11, 14-16, 18-20, 22-24, 26-28, 30-33, 23-37, and 39

Since Claims 2-11, 14-16, 18-20, 22-24, 26-28, 30-33, 23-37, and 39 each depend on one of Claims 1, 13, 17, 21, 25, 29, 34, and 38, Applicant respectfully submits that these claims are allowable for at least the reasons discussed above and the subject matter of their own limitations.

Summary


Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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